

1
2 **So Ordered.**



Patricia C. Williams
Patricia C. Williams
Bankruptcy Judge

3 **Dated: August 20th, 2013**

4
5 UNITED STATES BANKRUPTCY COURT
6 EASTERN DISTRICT OF WASHINGTON

7 In re:

DC No. 11-CV-364-RMP

8 LLS AMERICA, LLC,

Case No. 09-06194-PCW11

9 Debtor(s).

10 BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America, LLC,

Adversary No. 11-80295-PCW11

11 Plaintiff(s),

12 vs.

REPORT AND RECOMMENDATION
RE: PLAINTIFF'S MOTION FOR
ENTRY OF DEFAULT JUDGMENT
AGAINST DEFENDANTS ABE
PETERS AND ANNE PETERS (ECF
NO. 527)

13 1418490 ONTARIO, LTD., et al.,

14 Defendant(s).

15
16 The Honorable Patricia C. Williams, sitting in the United States Bankruptcy
17 Court for the Eastern District of Washington, hereby files this Report and
18 Recommendation regarding plaintiff's Motion for Entry of Default Judgment Against
19 Defendants Abe Peters and Anne Peters (ECF No. 527) filed with the bankruptcy court
20 in this adversary proceeding.

1 This Report and Recommendation is made pursuant to the Honorable Rosanna
2 Malouf Peterson's Order Withdrawing the Reference and Referring to Bankruptcy
3 Court for Further Proceedings entered on April 25, 2012 (ECF No. 28) in district court
4 case No. 11-CV-364-RMP.

5 The recommendation is that plaintiff's Motion for Entry of Default Judgment
6 Against Defendants Abe Peters and Anne Peters (ECF No. 527) be granted and the
7 attached Default Judgment be entered in this adversary proceeding. The basis for this
8 recommendation is that an Order of Default was entered by the bankruptcy court on
9 July 17, 2013 (ECF No. 479).

10 ///END OF REPORT AND RECOMMENDATION///

Shelley N. Ripley, WSBA No. 28901
Daniel J. Gibbons, WSBA No. 33036
WITHERSPOON • KELLEY
422 W. Riverside, Suite 1100
Spokane, WA 99201
Telephone: (509) 624-5265; Facsimile: (509) 458-2717
Attorneys to Bruce P. Kriegman, Chapter 11 Trustee

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

In Re:

LLS AMERICA, LLC,

Debtor.

BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America LLC,

Plaintiff,

v.

1418490 ONTARIO, LTD., et al.,

Defendants.

US District Case No. 11-CV-364-RMP

Bankruptcy No. 09-06194-PCW11

Adversary No. 11-80295-PCW 11

**DEFAULT JUDGMENT AGAINST
DEFENDANTS ABE PETERS AND
ANNE PETERS**

JUDGMENT SUMMARY

Judgment Creditor: Bruce P. Kriegman, solely in his capacity as the
Liquidating Trustee under the Confirmed Plan of
the Debtor

Attorneys for Witherspoon Kelley
Judgment Creditor:

DEFAULT JUDGMENT- 1

{S0746777; 1 }



WITHERSPOON • KELLEY

Attorneys & Counselors

422 W. Riverside Avenue, Suite 1100 Phone: 509.624.5265
Spokane, Washington 99201-0300 Fax: 509.458.2728

Judgment Debtor: Abe Peters and Anne Peters

Principal Amount of Judgment: \$17,200.00 CAD
\$ 250.00 US

Interest on Judgment: Weekly Average of One-Year Constant Maturity
(nominal) treasury yield as published by the
Federal Reserve System (28 USC § 1961)

This Court having previously entered an Order of Default against Defendants Abe and Anne Peters (Adv. Doc. No. 479), and having reviewed the previously filed Memorandum of Authorities (Adv. Doc. No. 456) and Affidavit of Curtis Frye (Adv. Doc. No. 457), and the Affidavit of Shelley N. Ripley in Support of Plaintiff's Motion for Default Judgment filed herewith, and being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff, Bruce P. Kriegman, solely in his capacity as court-appointed Chapter 11 Trustee for LLS America, LLC, shall have a judgment against the Defendants Abe Peters and Anne Peters, individually and jointly and severally, as follows:

1. Monetary Judgment in the amount of CAD \$17,200.00, pursuant to 11 U.S.C. § 550 and RCW 19.40.071;

2. Transfers in the amount of CAD \$17,200.00 made to the Defendants within four years prior to the Petition Filing Date are hereby avoided and Plaintiff

DEFAULT JUDGMENT- 2

{S0746777; 1 }

 **WITHERSPOON • KELLEY**
Attorneys & Counselors

422 W. Riverside Avenue, Suite 1100 Phone: 509.624.5265
Spokane, Washington 99201-0300 Fax: 509.458.2728

1 may take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544,
2 550, 551 and 548(a) and (b) and RCW 19.40.041(1) and (2) and RCW 19.40.071;

3 3. All said transfers to Defendants Abe and Anne Peters are hereby set
4 aside and Plaintiff shall be entitled to recover the same, or the value thereof, from
5 Defendants Abe and Anne Peters for the benefit of the estate of LLS America,
6 pursuant to 11 U.S.C. §§ 544, 550 and 551;
7

8 4. A constructive trust is hereby established over the proceeds of all
9 transfers in favor of the Trustee for the benefit of the estate of LLS America; and
10

11 4. Plaintiff is hereby awarded costs (i.e. filing fee) in the amount of
12 \$250.00 USD, for a total judgment of CAD \$17,200.00, plus \$250 USD, which
13 shall bear interest equal to the weekly average of one-year constant maturity
14 (nominal) treasury yield as published by the Federal Reserve System.
15

16 Entered this ____ day of _____, 2013.
17

18
19
20
21 HONORABLE ROSANNA PETERSON

22 *Presented by:*

23 WITHERSPOON • KELLEY
24

25 s/ Shelley N. Ripley

26 Shelley N. Ripley, WSBA No. 28901

27 Daniel J. Gibbons, WSBA No. 33036

28 Attorneys for Bruce Kriegman, Chapter 11 Trustee

DEFAULT JUDGMENT- 3

{S0746777; 1 }



WITHERSPOON • KELLEY

Attorneys & Counselors

422 W. Riverside Avenue, Suite 1100 Phone: 509.624.5265
Spokane, Washington 99201-0300 Fax: 509.458.2728